

## INITIATIVE 216

I, Ralph Munro, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 216 to the Legislature is a true and correct copy as it was received by this office.

1       AN ACT Relating to registration of bias/hate offenders; amending  
2 RCW 9A.44.140, 10.01.200, 43.43.540, 46.20.187, and 72.09.330;  
3 reenacting and amending RCW 70.48.470; adding a new section to chapter  
4 9A.36 RCW; and prescribing penalties.

5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

6       NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.36 RCW  
7 to read as follows:

8       (1) Any adult or juvenile residing in this state who has been found  
9 to have committed or has been convicted of any bias/hate offense, or  
10 who has been found not guilty by reason of insanity under chapter 10.77  
11 RCW of committing any bias/hate offense, shall register with the county  
12 sheriff for the county of the person's residence.

13       (2) The person shall provide the county sheriff with the following  
14 information when registering: (a) Name; (b) address; (c) date and  
15 place of birth; (d) place of employment; (e) crime for which convicted;  
16 (f) date and place of conviction; (g) aliases used; and (h) social  
17 security number.

(3)(a) Offenders shall register within the following deadlines. For purposes of this section the term "conviction" refers to adult convictions and juvenile adjudications for bias/hate offenses:

(i) OFFENDERS IN CUSTODY. Bias/hate offenders who committed a bias/hate offense on, before, or after the effective date of this act and who, on or after the effective date of this act are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register. Failure to register within twenty-four hours of release constitutes a violation of this section and is punishable as provided in subsection (7) of this section.

(ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Bias/hate offenders who, on the effective date of this act, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of correction's active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for bias/hate offenses committed before, on, or after the effective date of this act, must register within ten days of the effective date of this act. A change in supervision status of a bias/hate offender who was required to register under this subsection (3)(a)(ii) as of the effective date of this act shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iii) OFFENDERS UNDER FEDERAL JURISDICTION. Bias/hate offenders who, on or after the effective date of this act, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for bias/hate offenses committed before, on, or after the effective date of this act, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. Bias/hate offenders who, on the effective date of this act, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military

1 parole board for bias/hate offenses committed before, on, or after the  
2 effective date of this act, must register within ten days of the  
3 effective date of this act. A change in supervision status of a  
4 bias/hate offender who was required to register under this subsection  
5 (3)(a)(iii) as of the effective date of this act, shall not relieve the  
6 offender of the duty to register or to reregister following a change in  
7 residence. The obligation to register shall only cease pursuant to RCW  
8 9A.44.140.

9 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Bias/hate  
10 offenders who are convicted of a bias/hate offense on or after the  
11 effective date of this act but who are not sentenced to serve a term of  
12 confinement immediately upon sentencing, shall report to the county  
13 sheriff to register immediately upon completion of being sentenced.

14 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON  
15 RESIDENTS. Bias/hate offenders who move to Washington state from  
16 another state or a foreign country who are not under the jurisdiction  
17 of the state department of corrections, the indeterminate sentence  
18 review board, or the state department of social and health services at  
19 the time of moving to Washington, must register within thirty days of  
20 establishing residence or reestablishing residence if the person is a  
21 former Washington resident. The duty to register under this subsection  
22 applies to bias/hate offenders convicted under the laws of another  
23 state or a foreign country, federal or military statutes, or Washington  
24 state for offenses committed on or after the effective date of this  
25 act. Bias/hate offenders from other states or a foreign country who,  
26 when they move to Washington, are under the jurisdiction of the  
27 department of corrections, the indeterminate sentence review board, or  
28 the department of social and health services must register within  
29 twenty-four hours of moving to Washington. The agency that has  
30 jurisdiction over the offender shall notify the offender of the  
31 registration requirements before the offender moves to Washington.

32 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult  
33 or juvenile who has been found not guilty by reason of insanity under  
34 chapter 10.77 RCW of committing a bias/hate offense on, before, or  
35 after the effective date of this act, and who, on or after the  
36 effective date of this act is in custody, as a result of that finding,  
37 of the state department of social and health services, must register  
38 within twenty-four hours from the time of release with the county  
39 sheriff for the county of the person's residence. The state department

1 of social and health services shall provide notice to the adult or  
2 juvenile in its custody of the duty to register. Any adult or juvenile  
3 who has been found not guilty by reason of insanity of committing a  
4 bias/hate offense on, before, or after the effective date of this act,  
5 but who was released before the effective date of this act shall be  
6 required to register within twenty-four hours of receiving notice of  
7 this registration requirement. The state department of social and  
8 health services shall make reasonable attempts within available  
9 resources to notify bias/hate offenders who were released before the  
10 effective date of this act. Failure to register within twenty-four  
11 hours of release, or of receiving notice, constitutes a violation of  
12 this section and is punishable as provided in subsection (7) of this  
13 section.

14 (b) Failure to register within the time required under this section  
15 constitutes a per se violation of this section and is punishable as  
16 provided in subsection (7) of this section. The county sheriff shall  
17 not be required to determine whether the person is living within the  
18 county.

19 (c) An arrest on charges of failure to register, service of an  
20 information, or a complaint for a violation of this section, or  
21 arraignment on charges for a violation of this section, constitutes  
22 actual notice of the duty to register. Any person charged with the  
23 crime of failure to register under this section who asserts as a  
24 defense the lack of notice of the duty to register shall register  
25 immediately following actual notice of the duty through arrest,  
26 service, or arraignment. Failure to register as required under this  
27 subsection (3)(c) constitutes grounds for filing another charge of  
28 failing to register. Registering following arrest, service, or  
29 arraignment on charges shall not relieve the offender from criminal  
30 liability for failure to register prior to the filing of the original  
31 charge.

32 (d) The deadlines for the duty to register under this section do  
33 not relieve any bias/hate offender of a duty to register as it existed  
34 prior to the effective date of this act.

35 (4)(a) If any person required to register pursuant to this section  
36 changes his or her residence address within the same county, the person  
37 must send written notice of the change of address to the county sheriff  
38 at least fourteen days before moving. If any person required to  
39 register pursuant to this section moves to a new county, the person

1 must send written notice of the change of address at least fourteen  
2 days before moving to the county sheriff in the new county of residence  
3 and must register with that county sheriff within twenty-four hours of  
4 moving. The person must also send written notice within ten days of  
5 the change of address in the new county to the county sheriff with whom  
6 the person last registered. If any person required to register  
7 pursuant to this section moves out of Washington state, the person must  
8 also send written notice within ten days of moving to the new state or  
9 a foreign country to the county sheriff with whom the person last  
10 registered in Washington state.

11 (b) It is an affirmative defense to a charge that the person failed  
12 to send a notice at least fourteen days in advance of moving as  
13 required under (a) of this subsection that the person did not know the  
14 location of his or her new residence at least fourteen days before  
15 moving. The defendant must establish the defense by a preponderance of  
16 the evidence and, to prevail on the defense, must also prove by a  
17 preponderance that the defendant sent the required notice within  
18 twenty-four hours of determining the new address.

19 (5) The county sheriff shall obtain a photograph of the individual  
20 and shall obtain a copy of the individual's fingerprints.

21 (6) For the purpose of this section and RCW 9A.44.130, 10.01.200,  
22 43.43.540, 70.48.470, and 72.09.330, "bias/hate offense" means any  
23 offense punishable under RCW 9A.36.080.

24 (7) A person who knowingly fails to register or who moves without  
25 notifying the county sheriff as required by this section is guilty of  
26 a class C felony if the crime for which the individual was convicted  
27 was a felony or a federal or out-of-state conviction for an offense  
28 that under the laws of this state would be a felony. If the crime was  
29 other than a felony or a federal or out-of-state conviction for an  
30 offense that under the laws of this state would be other than a felony,  
31 violation of this section is a gross misdemeanor.

32 **Sec. 2.** RCW 9A.44.140 and 1998 c 220 s 3 are each amended to read  
33 as follows:

34 (1) The duty to register under RCW 9A.44.130 or section 1 of this  
35 act shall end:

36 (a) For a person convicted of a class A felony, or a person  
37 convicted of any bias/hate offense, sex offense, or kidnapping offense  
38 who has one or more prior (~~conviction[s]~~) convictions for a bias/hate

1 offense, sex offense, or kidnapping offense: Such person may only be  
2 relieved of the duty to register under subsection (3) or (4) of this  
3 section.

4 (b) For a person convicted of a class B felony, and the person does  
5 not have one or more prior (~~conviction[s]~~) convictions for a  
6 bias/hate offense, sex offense, or kidnapping offense: Fifteen years  
7 after the last date of release from confinement, if any, (including  
8 full-time residential treatment) pursuant to the conviction, or entry  
9 of the judgment and sentence, if the person has spent fifteen  
10 consecutive years in the community without being convicted of any new  
11 offenses.

12 (c) For a person convicted of a class C felony, a bias/hate offense  
13 that is other than a felony, a violation of RCW 9.68A.090 or 9A.44.096,  
14 or an attempt, solicitation, or conspiracy to commit a class C felony,  
15 and the person does not have one or more prior (~~conviction[s]~~)  
16 convictions for a bias/hate offense, sex offense, or kidnapping  
17 offense: Ten years after the last date of release from confinement, if  
18 any, (including full-time residential treatment) pursuant to the  
19 conviction, or entry of the judgment and sentence, if the person has  
20 spent ten consecutive years in the community without being convicted of  
21 any new offenses.

22 (2) The provisions of subsection (1) of this section shall apply  
23 equally to a person who has been found not guilty by reason of insanity  
24 under chapter 10.77 RCW of a bias/hate offense, sex offense, or  
25 kidnapping offense.

26 (3) Any person having a duty to register under RCW 9A.44.130 or  
27 section 1 of this act may petition the superior court to be relieved of  
28 that duty, if the person has spent ten consecutive years in the  
29 community without being convicted of any new offenses. The petition  
30 shall be made to the court in which the petitioner was convicted of the  
31 offense that subjects him or her to the duty to register, or, in the  
32 case of convictions in other states, a foreign country, or a federal or  
33 military court, to the court in Thurston county. The prosecuting  
34 attorney of the county shall be named and served as the respondent in  
35 any such petition. The court shall consider the nature of the  
36 registrable offense committed, and the criminal and relevant  
37 noncriminal behavior of the petitioner both before and after  
38 conviction, and may consider other factors. Except as provided in  
39 subsection (4) of this section, the court may relieve the petitioner of

1 the duty to register only if the petitioner shows, with clear and  
2 convincing evidence, that future registration of the petitioner will  
3 not serve the purposes of section 1 of this act, RCW 9A.44.130,  
4 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

5 (4) An offender having a duty to register under RCW 9A.44.130 or  
6 section 1 of this act for a bias/hate offense, sex offense, or  
7 kidnapping offense committed when the offender was a juvenile may  
8 petition the superior court to be relieved of that duty. The court  
9 shall consider the nature of the registrable offense committed, and the  
10 criminal and relevant noncriminal behavior of the petitioner both  
11 before and after adjudication, and may consider other factors. The  
12 court may relieve the petitioner of the duty to register for a  
13 bias/hate offense, sex offense, or kidnapping offense that was  
14 committed while the petitioner was fifteen years of age or older only  
15 if the petitioner shows, with clear and convincing evidence, that  
16 future registration of the petitioner will not serve the purposes of  
17 section 1 of this act, RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187,  
18 70.48.470, and 72.09.330. The court may relieve the petitioner of the  
19 duty to register for a bias/hate offense, sex offense, or kidnapping  
20 offense that was committed while the petitioner was under the age of  
21 fifteen if the petitioner (a) has not been adjudicated of any  
22 additional bias/hate offenses, sex offenses, or kidnapping offenses  
23 during the twenty-four months following the adjudication for the  
24 offense giving rise to the duty to register, and (b) the petitioner  
25 proves by a preponderance of the evidence that future registration of  
26 the petitioner will not serve the purposes of section 1 of this act,  
27 RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and  
28 72.09.330.

29 This subsection shall not apply to juveniles prosecuted as adults.

30 (5) Unless relieved of the duty to register pursuant to this  
31 section, a violation of RCW 9A.44.130 or section 1 of this act is an  
32 ongoing offense for purposes of the statute of limitations under RCW  
33 9A.04.080.

34 (6) Nothing in RCW 9.94A.220 relating to discharge of an offender  
35 shall be construed as operating to relieve the offender of his or her  
36 duty to register pursuant to RCW 9A.44.130 or section 1 of this act.

37 **Sec. 3.** RCW 10.01.200 and 1997 c 113 s 5 are each amended to read  
38 as follows:

1 The court shall provide written notification to any defendant  
2 charged with a bias/hate offense, sex offense, or kidnapping offense of  
3 the registration requirements of RCW 9A.44.130 and section 1 of this  
4 act. Such notice shall be included on any guilty plea forms and  
5 judgment and sentence forms provided to the defendant.

6 **Sec. 4.** RCW 43.43.540 and 1998 c 220 s 4 are each amended to read  
7 as follows:

8 The county sheriff shall forward the information, photographs, and  
9 fingerprints obtained pursuant to RCW 9A.44.130 or section 1 of this  
10 act, including any notice of change of address, to the Washington state  
11 patrol within five working days. The state patrol shall maintain a  
12 central registry of bias/hate offenders, sex offenders, and kidnapping  
13 offenders required to register under RCW 9A.44.130 or section 1 of this  
14 act and shall adopt rules consistent with chapters 10.97, 10.98, and  
15 43.43 RCW as are necessary to carry out the purposes of section 1 of  
16 this act, RCW 9A.44.130, 9A.44.140, 10.01.200, 43.43.540, 46.20.187,  
17 70.48.470, and 72.09.330. The Washington state patrol shall reimburse  
18 the counties for the costs of processing the offender registration,  
19 including taking the fingerprints and the photographs.

20 **Sec. 5.** RCW 46.20.187 and 1990 c 3 s 407 are each amended to read  
21 as follows:

22 The department, at the time a person renews his or her driver's  
23 license or identicard, or surrenders a driver's license from another  
24 jurisdiction pursuant to RCW 46.20.021 and makes an application for a  
25 driver's license or an identicard, shall provide the applicant with  
26 written information on the registration requirements of RCW 9A.44.130  
27 and section 1 of this act.

28 **Sec. 6.** RCW 70.48.470 and 1997 c 364 s 3 and 1997 c 113 ú 7 are  
29 each reenacted and amended to read as follows:

30 (1) A person having charge of a jail shall notify in writing any  
31 confined person who is in the custody of the jail for a conviction of  
32 a sex offense or kidnapping offense as defined in RCW 9A.44.130 or a  
33 bias/hate offense of the registration requirements of RCW 9A.44.130 and  
34 section 1 of this act at the time of the inmate's release from  
35 confinement, and shall obtain written acknowledgment of such  
36 notification. The person shall also obtain from the inmate the county



1 of the inmate's residence upon release from jail and, where applicable,  
2 the city.

3 (2) When a bias/hate offender, sex offender, or kidnapping offender  
4 under local government jurisdiction will reside in a county other than  
5 the county of conviction upon discharge or release, the chief law  
6 enforcement officer of the jail or his or her designee shall give  
7 notice of the inmate's discharge or release to the sheriff of the  
8 county and, where applicable, to the police chief of the city where the  
9 offender will reside.

10 **Sec. 7.** RCW 72.09.330 and 1997 c 113 s 8 are each amended to read  
11 as follows:

12 (1) The department shall provide written notification to an inmate  
13 convicted of a bias/hate offense, sex offense, or kidnapping offense of  
14 the registration requirements of RCW 9A.44.130 and section 1 of this  
15 act at the time of the inmate's release from confinement and shall  
16 receive and retain a signed acknowledgement of receipt.

17 (2) The department shall provide written notification to an  
18 individual convicted of a bias/hate offense, sex offense, or kidnapping  
19 offense from another state of the registration requirements of RCW  
20 9A.44.130 and section 1 of this act at the time the department accepts  
21 supervision and has legal authority of the individual under the terms  
22 and conditions of the interstate compact agreement under RCW 9.95.270.

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